IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7179 OF 2007

Hindustan Lever Employees Union ..Petitioner

Vs.

Hindustan Lever Ltd. and ors. ..Respondents

WITH
WRIT PETITION NO. 8130 OF 2007

Hindustan Lever Ltd. ..Petitioner

Vs.

Hindustan Lever Employees Union ..Respondent

Mrs. Meena Doshi for petitioner in W.P. No.7179/07 and for respondent in W.P. No. 8130/07.

Mr. C.U. Singh, Senior Advocate i/by M/s. Sanjay Udesh and Co. for respondent no.1 in W.P. No.7179/07 and for petitioner in W.P. No.8130/07.

Mr. Girish Kulkarni with Mr. S.S. Deshmukh for respondent no.2 in W.P. No. 7179/07.

CORAM: B.H. MARLAPALLE, J.

Date : December 14, 2007.

P.C.:

1. Heard Mrs. Doshi the learned counsel for the Union and Mr. Singh, the learned Senior Counsel for the Company. These are two cross petitions

challenging the order passed by the Labour Court on 20/8/2007 in Reference (IDA) No. 7 of 2004.

2. The learned Judge of the Labour Court held that he lacked the powers to adjudicate upon the unfair labour practice and the same was within the purview of the Industrial Tribunal. During the pendency of these two petitions, the Collector/ Administrator of Div and Daman has passed order on 6/12/2007 and referred the charter of demands for adjudication to the Industrial Tribunal constituted under Section 7A of the Industrial Disputes Act 1947. On the last date a copy of the said order has been placed on record by Mr. Kulkarni the learned counsel appearing for the Administrator of Div and Daman.

3. In view of the said order passed by the Administrator, Div and Daman on 6/12/2007 the parties will have to now appear before the Industrial Tribunal and the challenge to the impugned order passed by the Labour Court would not survive any further and this reference made is without prejudice to the rights and contentions of the parties. Consequently all the

issues are at large before the Industrial Tribunal to be decided de novo. The Company has assured before this court that it would continue to extend the benefits of the settlement as are being extended at present till the application to be filed by the Union before the Industrial Tribunal is decided and the learned counsel for the Union states that such an application will be filed expeditiously. Both the parties agree that copies of the pleadings as available on the file of the Labour Court in the above stated reference would be submitted and relied upon before the Industrial Tribunal and in any case none of them will be prevented from filing additional pleadings, if so required, and/or adducing additional evidence as may be deemed appropriate. Undoubtedly, the Industrial Tribunal while adjudicating the demands will not be influenced by any observations made in the orders passed by the Labour Court from time to time in the above stated reference. After the copies of the pleadings as submitted in the reference before the Labour Court are brought on record by both the parties, the Industrial Tribunal will frame fresh issues or recast the issues.

4. Having regards to the fact that the charter of demands was submitted in May 2003, the Industrial Tribunal will take appropriate steps to decide the reference expeditiously. It is also made clear that the Company will not be prevented from submitting an application for an award in terms of the settlement before the Industrial Tribunal. In case the application to be submitted by the Union for interim relief is decided against it, the undertaking of the Company to continue the settlement would remain in force for a period of four weeks therefrom.

5. Both the petitions stand disposed off accordingly.

(B.H. Marlapalle,J.)